

Message Text

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ORIGIN STR-07

INFO OCT-01 IO-13 ISO-00 COME-00 STRE-00 LAB-04 TRSE-00
AGRE-00 CEA-01 CIAE-00 DODE-00 EB-08 FRB-03 H-01
INR-10 INT-05 L-03 NSAE-00 NSC-05 PA-01 CTME-00
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TO USMISSION GENEVA

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USMTN

E.O. 11652: N/A

TAGS: ETRD, MTN

SUBJECT: ACTN ISSUES FOR GENEVA DISCUSSION - SAFEGUARDS

REF: GENEVA 9177

1. ONE OF THE ISSUES LISTED IN REFTL FOR DISCUSSION UNDER
SAFEGUARDS IS AS FOLLOWS: "TO WHAT EXTENT SHOULD THE U.S.
AGREE TO INTERNATIONAL (MULTILATERAL COMMITTEE) REVIEW OF,
AND JUDGMENT ON, ITS ESCAPE CLAUSE ACTIONS BEFORE ENTERING
INTO SELECTIVE ARRANGEMENTS LIKE OMA'S?" NO;E OF TH- PRO-
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POSALS ON THE TABLE CALL FOR A PRIOR REVIEW OF A PROPOSED
OMA BY A MULTILATERAL COMMITTEE.

2. OF COURSE, ANY CODE SIGNATORY COULD REQUEST A MULTI-
LATERAL REVIEW, BUT THIS WOULD BE HIGHLY IMPROBABLE IN THE
CASE OF AN OMA SINCE ALL COUNTRIES WHOSE TRADE WOULD BE RE-
STRICTED WOULD BE INVOLVED IN THE NEGOTIATIONS AND THE RE-

STRICTIONS COULD NOT BE APPLIED WITHOUT THEIR CONSENT.

3. GATT ARTICLE XIX:2 ALREADY PROVIDES FOR THE POSSIBILITY OF A MULTILATERAL REVIEW OF A PROPOSED SAFEGUARD MEASURE ON REQUEST. THE ONLY DIFFERENCE BETWEEN THIS PROCEDURE AND THAT OF THE CODE IS THAT UNDER THE LATTER ANY REVIEW REQUESTED WOULD BE CARRIED OUT BY THE SAFEGUARDS COMMITTEE RATHER THAN THE GATT CONTRACTING PARTIES.

4. ONE COULD EASILY IMAGINE CIRCUMSTANCES IN WHICH THERE WOULD BE A REQUEST FOR MULTILATERAL REVIEW OF AN MFN SAFEGUARD ACTION TAKEN PURSUANT TO ARTICLE XIX, BECAUSE SUCH ACTION CAN BE TAKEN WITHOUT THE EXPORTING COUNTRIES' CONSENT (THE U.S. ESCAPE CLAUSE ACTION ON WOMEN'S FUR FELT HATS WAS SUBJECTED TO A FULL MULTILATERAL REVIEW). BUT IT IS MORE DIFFICULT TO SEE WHY A REVIEW OF A PROPOSED OMA SHOULD BE REQUESTED. THE RESULT COULD EASILY BE THE IMMEDIATE UNILATERAL APPLICATION OF AN MFN REMEDY WITH MORE RESTRICTIVE EFFECT. IT SHOULD BE NOTED THAT THERE WAS NO REQUEST FOR REVIEW OF THE US FOOTWEAR OMA'S EVEN THOUGH ANY GATT CONTRACTING PARTY COULD HAVE REQUESTED IT PURSUANT TO ARTICLE XIX:2.

5. IF THIS ISSUE IS DISCUSSED YOU SHOULD MAKE SURE THE ACTN MEMBERS UNDERSTAND THESE CONSIDERATIONS. VANCE

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